

AMENDED IN ASSEMBLY APRIL 26, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2088

Introduced by Assembly Member Adams

February 18, 2010

An act to amend ~~Section 11302 of, and to repeal Section 11105 of, Sections 11105 and 11302 of~~ the Elections Code, relating to recall elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 2088, as amended, Adams. Recall elections.

(1) Existing provisions of the California Constitution and statute authorize the recall of state officers. Each section of a recall petition is required to be filed with the elections official of the county for which it was circulated. Existing law requires the elections official to report to the Secretary of State, 30 days after a recall has been initiated and every 30 days thereafter, the number of signatures submitted on the recall petition sections, the number of valid signatures, and related information. Upon the submission of a section of a recall petition, if fewer than 500 signatures are submitted to the elections official, the elections official is required to count the number of signatures and submit those results to the Secretary of State. If 500 or more signatures are submitted to the elections official, the elections official may verify, using a random sampling technique, either 3% of the signatures submitted or 500 signatures, whichever is less, and report the results of that verification to the Secretary of State.

~~This bill would repeal the provision that requires the elections official to count the number of signatures if there are fewer than 500 signatures.~~

This bill would provide that if 500 or more signatures are submitted to the elections official, the elections official may verify, using a random sampling technique, either 3% of the signatures submitted or 500 signatures, whichever is greater.

(2) Under existing law, if a vacancy occurs in office after a recall petition is filed against the vacating officer, the recall elections is required to proceed. The vacancy in that office is required to be filled as provided by law, but a person appointed to fill the vacancy holds office only until a successor is selected and qualifies for that office.

This bill would provide that upon the occurrence of a vacancy, the elections official for each county in which a section of the recall petition has been filed is required to immediately verify the signatures on the petition submitted to the elections official as of the date of the vacancy. If the elections official verifies that a sufficient number of signatures were filed as of the date of the vacancy, the recall election would be required to proceed. If the elections official verifies that an insufficient number of signatures, *or no signatures*, were filed as of the date of the vacancy, the recall election would not proceed and the vacancy in the office that is the subject of the recall election would be filled as otherwise provided by law. *The bill would delete the requirement that a person appointed to fill the vacancy holds office only until a successor is selected and instead would prohibit a person who was subject to a recall petition from being appointed to fill the vacancy in the office that he or she vacated or to fill any other vacancy in office on the same governing board for the duration of the term of office of the vacated seat.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 11105 of the Elections Code is repealed.~~
- 2 *SECTION 1. Section 11105 of the Elections Code is amended*
- 3 *to read:*
- 4 11105. Upon each submission, if fewer than 500 signatures
- 5 are submitted to the elections official, he or she shall count the
- 6 number of signatures and submit those results to the Secretary of
- 7 State. If 500 or more signatures are submitted, the elections official
- 8 may verify, using a random sampling technique, either 3 percent
- 9 of the signatures submitted, or 500, whichever is ~~less~~ *greater*. The

1 random sample of signatures to be verified shall be drawn in such
2 a manner that every signature filed with the elections official shall
3 be given an equal opportunity to be included in the sample. Upon
4 completion of the signature verification, the elections official shall
5 report the results to the Secretary of State pursuant to Section
6 11104.

7 SEC. 2. Section 11302 of the Elections Code is amended to
8 read:

9 11302. (a) Except as described in paragraph (3) of subdivision
10 (b), if a vacancy occurs in an office after a recall petition is filed
11 against the vacating officer, the recall election shall nevertheless
12 proceed.

13 (b) (1) Upon the occurrence of the vacancy, the elections official
14 for each county in which a section of the recall petition has been
15 filed shall immediately verify the signatures on the petition
16 submitted to the elections official as of the date of the vacancy.

17 (2) If the elections official verifies that a sufficient number of
18 signatures were filed as of the date of the vacancy, the recall
19 election shall proceed.

20 (3) If the elections official verifies that an insufficient number
21 of signatures, *or no signatures*, were filed as of the date of the
22 vacancy, the recall election shall not proceed and a vacancy in the
23 office that is the subject of the recall election shall be filled as
24 otherwise provided by law.

25 ~~(c) Any person appointed to fill the vacancy under this section~~
26 ~~shall hold office only until a successor is selected in accordance~~
27 ~~with Article 4 (commencing with Section 11381), and the successor~~
28 ~~qualifies for that office.~~

29 (4) *A person who was subject to a recall petition may not be*
30 *appointed to fill the vacancy in the office that he or she vacated*
31 *and that person may not be appointed to fill any other vacancy in*
32 *office on the same governing board for the duration of the term of*
33 *office of the seat that he or she vacated.*